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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047342
Party	Defendant Joyce Lopeteguy
Correspondence Address	Dennis B. Haase Law Offices of Dennis B. Haase Post Office Box 6206 Hot Springs, AR 71902 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Dennis B. Haase
Filer's e-mail	dbhaase@sbcglobal.net, maagoo10@sbcglobal.net
Signature	/s/ Dennis B. Haase
Date	08/13/2007
Attachments	MotDismiss081307.pdf (13 pages)(478889 bytes)

IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

JOYCE LOPETEGUY
6717 Kimberly Street
Bakersfield, California 93308

Cancellation No. 92047342
Registration No. 1,694,622

Vincent M. Amberly
Litman Law Offices, Ltd.
Post Office Box 15035
Arlington, Virginia 22215

Imagination Holdings Pty. Ltd.

v.

Joyce Lopeteguy

**MOTION OF REGISTRANT FOR DISMISSAL OF PETITION
FOR FAILURE TO RESPOND TO DISCOVERY**

COMES NOW, Registrant, Joyce Lopeteguy, and requests that this Cancellation proceeding be dismissed for failure of the Petitioner to respond to discovery requests.

Petitioner, Imagination Holdings Pty. Ltd., filed its Petition for Cancellation on April 3, 2007. A Notice from the Board was mailed on April 6, 2007, setting forth the time frame for Registrant's Answer, as well as discovery and testimony periods. The

discovery period opened on April 26, 2007 and closes on October 23, 2007. In keeping with that schedule, Registrant served a First Set of Interrogatories to Petitioner on June 12, 2007. A copy of those Interrogatories are attached hereto as Exhibit A.

Not having had a response to the Interrogatories, On July 24, 2007, a letter to counsel for Petitioner, Vincent M. Amberly of the Litman Law Offices, Ltd., was prepared requesting a response not later than August 1, 2007. That letter was sent to counsel by email and by regular mail, and a copy of that communication is attached hereto as Exhibit B. A check was also made of the TTAB website in an effort to determine whether or not Petitioner had filed a request for an extension of time, and no filing was found.

As of this writing, there has been no communication from counsel for Petitioner with regard to the discovery responses. In view of the lack of communication from Petitioner and their failure to respond to the Interrogatories, even after being prompted by Registrant, it should be apparent that Petitioner was not serious, and it is respectfully requested that the Board dismiss this Cancellation Proceeding.

Dated: August 13, 2007

Respectfully submitted,



Dennis B. Haase
Registration No. 22,037
Post Office Box 6206
Hot Springs, Arkansas 71902
[501] 609-0404
Attorney for Registrant

IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE
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**REGISTRANT'S FIRST SET OF INTERROGATORIES
TO PETITIONER**

NOW COMES Registration, Joyce Lopeteguy, by her attorney, and requests that Petitioner, Imagination Holdings Pty. Ltd., answer the following interrogatories under oath in accordance with Rule of the Federal Rules of Civil Procedure and Rule 405 of the Trademark Trial and Appeal Board Rules.

INTRODUCTION AND DEFINITIONS

These Interrogatories seek answers as of the date hereof, and, further, shall be deemed to be continuing so that any additional information relating in any way

to these Interrogatories, or your Answers thereto, which Petitioner acquires, or which becomes known to Petitioner, up to and including the time of trial, shall be furnished to Registrant immediately after such information is acquired or becomes known.

In the following Interrogatories, the terms "document" and "documents" shall include, without limitation, originals and copies of all correspondence, literature, papers, memoranda, reports, notes, diaries, messages, telegrams, books, letters, ledgers, drawings photographs, publications, advertisements, brochures, price lists, recordings, information stored on hard drives or other computer storage devices, and any other writings.

In the following Interrogatories, the term "BUNCO" shall mean the mark as identified in Registration No. 1,694,622, and any spelling or phonetic variation of the same.

In the following Interrogatories, the terms "identify" and "state the identity of" shall mean a complete identification, to the full extent known or ascertainable by Petitioner, whether or not in the possession of Petitioner and whether or not alleged to be privileged, including the following information:

A. The present depository, or depositories, and the name and address of the person, or persons, having custody or any item to be identified unless the item is a trademark, public document or person;

B. Where the item to be identified is a person, his full name, address, job title and present employer;

C. Where the item to be identified is a document or paper, its character, title, date, addressee or recipient, and author, signatory, or sender; and,

D. Where the item to be identified is printed material, its title, author, publication date, volume and the relevant page numbers.

The terms "person" and/or "persons" shall mean both natural persons and corporate or other business entities, whether or not in the employ of Petitioner, unless otherwise specified.

As used herein, "Ppetitioner" means not only IMAGINATION HOLDINGS PTY. LTD, but also its predecessors, including assignors, if any, persons controlling or controlled by Petitioner, and its and their officers, directors, employees, agents, representatives and attorneys, to the fullest extent the context permits.

In the following Interrogatories, if privilege is alleged as to information or materials relevant to any Interrogatory, or if an Interrogatory is otherwise not answered in full, state the specific grounds for not answering in full and answer said Interrogatory to the extent to which it is not objected, including the identification of all information or materials for which privilege is claimed.

INTERROGATORY NO. 1:

Set forth each and every instance of the use of the mark BUNCO by third parties which you allege to be an infringement of that mark.

INTERROGATORY NO. 2:

With reference to your response to Interrogatory No. 1, state whether any mark identified is the subject of a federal registration.

INTERROGATORY NO. 3:

If your response to Interrogatory No. 2 is in the affirmative, set forth the registration numbers.

INTERROGATORY NO. 4:

With reference to your response to Interrogatory No. 1, state the basis for your claim that the mark is infringed.

INTERROGATORY NO. 5:

With reference to your response to Interrogatory No. 1, identify the products sold under the marks identified in your response.

INTERROGATORY NO. 6:

Set forth each and every fact which supports, or tends to support, or which you contend supports, your allegation that the mark BUNCO has become descriptive.

INTERROGATORY NO. 7:

With reference to your response to Interrogatory No. 6, identify each, every and all persons having knowledge of the facts set forth in your response.

INTERROGATORY NO. 8:

With reference to your response to Interrogatory No. 6, identify each, every and all documents which support, tend to support, or which you contend support, your response.

INTERROGATORY NO. 9:

Set forth each and every fact which supports, or tends to support, or which you contend supports, your allegation that the mark BUNCO has become generic.

INTERROGATORY NO. 10:

With reference to your response to Interrogatory No. 9, identify each, every and all persons having knowledge of the facts set forth in your response.

INTERROGATORY NO. 11:

With reference to your response to Interrogatory No. 9, identify each, every and all documents which support, tend to support, or which you contend support, your response.

INTERROGATORY NO. 12:

With regard to your allegation in Paragraph 7 of your Petition for Cancellation that "Continued registration . . . will injury and damage Petitioner.", state whether or not Petitioner has actually been injured or damaged by the registration of the mark BUNCO.

INTERROGATORY NO. 13:

If your response to Interrogatory No. 12 is in the affirmative, set forth each and every instance of such actual injury or damage suffered by Petitioner.

INTERROGATORY NO. 14:

With regard to your response to Interrogatory No. 13, describe each and every instance of such actual injury or damage suffered by Petitioner.

INTERROGATORY NO. 15:

If your response to Interrogatory No. 12 is in the affirmative, identify each, every and all persons having knowledge of such actual injury or damage suffered by Petitioner.

INTERROGATORY NO. 16:

If your response to Interrogatory No. 12 is in the affirmative, identify each, every and all documents which support, which tend to support, or which you contend supports, each and every instance of such actual injury or damage suffered by Petitioner.

INTERROGATORY NO. 17:

If your response to Interrogatory No. 12 is in the negative, set forth every fact which supports, or tends or support, or which you contend supports, your allegation that Petitioner will be injured and damaged.

INTERROGATORY NO. 18:

With reference to your response to Interrogatory No. 17, identify each and every person having knowledge of such facts.

INTERROGATORY NO. 19:

With reference to your response to Interrogatory No. 17, identify each, every and all documents which support, tend to support, or which you contend support, those allegations.

INTERROGATORY NO. 20:

Identify each, every and all usages, which use is intended to identify the source of a product or service under the name BUNCO.

Dated: June 12, 2007

LAW OFFICES OF DENNIS B. HAASE

By 

Dennis B. Haase
Registration No. 22,037

Post Office Box 6206
Hot Springs, Arkansas 71902
[501] 609-0404


Attorney for Registrant

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to:

Vincent M. Amberly, Esq.
Litman Law Offices, Ltd.
Post Office Box 15035
Arlington, Virginia 22215

on June 12, 2007.


Margaret Haase



Print - Close Window

Date: Tue, 24 Jul 2007 11:23:26 -0700 (PDT)
From: "Maggie Haase" <maagoo10@sbcglobal.net>
Subject: Imagination Holdings Pty. Ltd. v. Joyce Lopeteguy Cancellation
To: efile@4patent.com

Dear Mr. Amberly: Mr. Haase asked me to send you the attached letter with regard to the above referenced matter.

Maggie Haase
PACE Registered Paralegal
Law Offices of Dennis B. Haase
ArPA Treasurer & PACE Ambassador
Post Office Box 6206
Hot Springs, Arkansas 71902
[501] 609-0404

Attachments

Files:



Amberly072407.pdf (34k)

EXHIBIT B

LAW OFFICES OF

DENNIS B. HAASE

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(888) 267-8220

EMAIL:
dbhaase@sbcglobal.net

July 24, 2007

By Email and Regular Mail - efile@4patent.com

Vincent M. Amberly, Esq.
Litman Law Offices, Ltd.
Post Office Box 15035
Arlington, Virginia 22215

Re: Imagination Holdings Pty. Ltd. v. Joyce Lopeteguy Cancellation

Dear Mr. Amberly:

With regard to the above referenced cancellation proceeding, on June 12, 2007, we forwarded to you our First Set of Interrogatories to Petitioner. As of this writing, we have had no response to those interrogatories.

We checked the USPTO website this morning to determine if perhaps you had filed a motion to extend the time for response, but nothing appears in the records for this proceeding.

Unless we hear from you with regard to some other arrangement, we will expect to receive your response to these interrogatories not later than August 1, 2007.

Yours very truly,



Dennis B. Haase

DBH:mh

cc: Mrs. Joyce Lopeteguy

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Registrant For Dismissal Of Petition For Failure To Respond To Discovery, has been served on counsel for Petitioner on August 13, 2007, by email as follows:

Vincent M. Amberly, Esq. - efile@4patent.com

/s/ Dennis B. Haase
Dennis B. Haase